

1                   IN THE DISTRICT COURT OF THE NINETEENTH  
2                   JUDICIAL DISTRICT OF THE STATE OF MONTANA  
3                   IN AND FOR THE COUNTY OF LINCOLN

12

13 VIDEO DEPOSITION  
14 OF

18

9 Taken at the home of Robert J. Wilkes  
316 Dome Mountain Avenue  
10 Libby, Montana  
Wednesday, December 15, 1999  
11 2:30 p.m.

23

24

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Reported by Debra M. Hedman, RPR, RMR, and Notary Public for the State of Montana, Flathead County.

1       significant jobs before you -- between the time that  
2       you worked at the mine and before you went to work  
3       at Zonolite?

4             A     No, I was just cutting wood. A few fence  
5       posts in that, too.

6             Q     Okay. Do you remember how long you worked  
7       at Zonolite?

8             A     Probably two and a half years. That's  
9       down on the bottom and up on top both.

10            Q     Do you remember when you left Zonolite,  
11       the year approximately?

12            A     About 1946, '47.

13            Q     Can you sort of summarize the work that  
14       you did after you left Zonolite in 1946?

15            A     I started driving dump truck. When I  
16       worked for Zonolite that's what I did. And then I  
17       kind of liked the dump truck so I stayed on them as  
18       much as I could.

19            Q     And what kinds of outfits did you drive  
20       dump truck for?

21            A     Well, Russell Deist, he had just one dump  
22       truck and I hauled rip-rap up on the river up at  
23       Rexford. That was just a short job. I just --

24            Q     Did you ever drive logging trucks?

25            A     Oh, yeah. A lot of it.

1 A Yeah, on Payne Machinery.

2 Q What happened there?

3 A Lost a finger.

4 Q Do you remember when that was, roughly?

5 A About '76.

6 Q All right. How about any other injuries?

7 Did you ever suffer any other injuries?

8 A When I worked for Bushman I ruined my  
9 neck.

10 Q When was that?

11 A In '88.

12 Q Did you go back to work after that neck  
13 injury?

14 A No.

15 Q So is the neck injury what caused you to  
16 retire?

17 A That's right.

18 Q Do you recall how old you were when that  
19 happened?

20 A No, I really don't. I didn't keep track  
21 of my age.

22 Q Okay. I'd like to address now the jobs  
23 that you worked when you were up at Zonolite  
24 specifically. Do you remember what your first job  
25 was when you worked at Zonolite?

1 A For W.R. Grace or for Bill Blue?

2 Q When you worked at Zonolite, the first  
3 work that you did that took you up there.

4 A I went right out on a dump truck.

5 Q Now you mentioned Billy Blue?

6 A That was down below at the transfer bin.  
7 That was before I went up there.

8 Q Now, was Billy Blue a part of Zonolite or  
9 what was that relationship?

10 A As far as I know, he was. He had a  
11 contract with them to haul the ore from the transfer  
12 bins to the siding here in Libby.

13 Q When you worked for Billy Blue did you  
14 ever make any other trips except for Zonolite?

15 A No.

16 Q What was the -- You know, you mentioned  
17 that you hauled ore to town. What did -- Did you  
18 start in town with an empty truck and then go --

19 A Yeah. Right.

20 Q Okay. Where on the hill did you go to  
21 pick up your load?

22 A Oh, when we started up Rainey Creek, I  
23 would say close to two and a half miles up there, or  
24 three.

25 Q But it was at or near the mine and mill?

1 Up in that area?

2 A It was down below the mill.

3 Q How far down from the mill would you say?

4 A Straight across. Not too far. Fifteen  
5 hundred feet probably.

6 Q I'm going to show you this photo. It's  
7 Exhibit 1-31. Would you take a look at that and see  
8 if that describes --

9 A That's --

10 Q Let's hold it up a little. Is that where  
11 you went to pick up the ore?

12 A Yeah. I came in this way and in there and  
13 down another road and down off the mountain  
14 (indicating).

15 Q How about this? Does this accurately  
16 depict it, too? That's Exhibit 2-83?

17 A Yeah.

18 Q Okay. Let's hold it up and make sure we  
19 get a shot. Using those photos can you describe  
20 what the process was when you were driving for Billy  
21 Blue to pick up your load?

22 A Well, you pulled in under there, and you  
23 can't see them in the picture, but there is a chute  
24 for each bin that the ore is dumped in from the skip  
25 up above.

1           A     Yeah, whichever spot that you -- if you  
2     had the order to get out of the first one or second  
3     one or third one, and depended on what grade of ore  
4     they wanted down there -- downtown.

5           Q     How long did it usually take for the truck  
6     to fill?

7           A     Probably twenty minutes. Fifteen to  
8     twenty minutes.

9           Q     Now, did you just open the chute?

10          A     Opened it, let the ore go in there and --  
11     it built up to the chute and then you would shut it  
12     off and kick it around and open it up again, and --

13          Q     Was that a dusty job?

14          A     Quite dusty, yeah. You couldn't see  
15     sometimes.

16          Q     Now, were you -- How did you shut the ore  
17     off?

18          A     Just pulled the -- Pushed the chute -- the  
19     hopper, on the bottom of that chute there, that just  
20     pulls it off.

21          Q     And where was the dust coming from at that  
22     point?

23          A     From out of there?

24          Q     Yeah.

25          A     It was when it hit the bed of the truck or

1 the dump box. It would just billow up around you.

2 Q And where were you standing at that point?

3 A Sometimes I would stay on the outside  
4 until it got full to where I had to get in there and  
5 kick it around, and then I got in there and I kicked  
6 the ore around to get it away from the chute to fill  
7 the box full up.

8 Q And did you just do the chute one time and  
9 fill it or did it take you a couple times?

10 A Well, it took two or three times to do  
11 that.

12 Q Why was that?

13 A Because you had to get it in there and  
14 push it back away or it just wouldn't fill up.

15 Q How would you describe the dust?

16 A Very bad. It -- It's kind of hard to tell  
17 how thick it was. It was so thick it would knock  
18 the lights out. You couldn't even see the light  
19 burning.

20 Q This photo here, Exhibit 1-31, that seems  
21 to show that the entire area was covered. Do you  
22 remember any ventilation?

23 A In here (indicating)?

24 Q Yes?

25 A None. The only ventilation was with the

1 air through where you drove the truck in. That's  
2 the only thing there was.

3 Q Do you remember whether the dust ever  
4 varied depending upon certain conditions?

5 A There was dust all the time. If you was  
6 hauling the coarse ore, the heavy stuff, there  
7 wasn't so much dust there. But then if you got in  
8 there and was taking the finer stuff down or loading  
9 out there, it was terrific. It was dust -- you was  
10 just loading dust. That's all there was.

11 Q And how could you tell what grade of ore  
12 it was?

13 A Well, each chute was marked; one, two,  
14 three, four, five, and six.

15 Q And were you always able to drive right up  
16 and fill your load?

17 A Sometimes I would have to wait for another  
18 truck to get out of my way.

19 Q And where would you wait?

20 A Back beyond it, on the back side -- Let's  
21 see, I would wait out here, out in the road. And  
22 the truck that was loading, he would go on through,  
23 and --

24 Q Was it only dusty when you were loading?

25 A Not necessarily. If they were dumping ore



1 in the top up there, why, dust was coming out them  
2 windows up on the top.

3 Q I'm sorry, can you show that again?

4 A Coming out them top windows there and it  
5 would just come out there and fall down over you.

6 Q The dust was coming out of the windows?

7 A Yeah, there was no windows in there. Just  
8 vent holes is what they were.

9 Q How many loads did you usually haul each  
10 day?

11 A If I recall, it was eight or nine loads  
12 that you were -- that you had to haul in. That was  
13 ten yards or so on a load.

14 Q You mentioned that sometimes you had to  
15 wait behind a truck that was filling its load. How  
16 many times per day do you think that happened?

17 A Probably once. Probably once a week.

18 Q Did you ever do anything to protect  
19 yourself from being around so much dust when you  
20 were filling the ore?

21 A I just tried to put them -- little paper  
22 mask on my face and it didn't do a bit of good.

23 Q What happened when you went to town with  
24 your load?

25 A Well, it depended on what ore you was

1       hauling, you had to cover it. If it was the coarse  
2       stuff you didn't have to cover it with a tarp. If  
3       it was the fine stuff you had to tie it down pretty  
4       tight.

5           Q     And why was that?

6           A     Because the wind would just blow it off.  
7       It was just dust.

8           Q     What happened when you got into town?

9           A     You would back into -- You drove on the  
10       scales and then you backed off of the scales up onto  
11       the ramp.

12          Q     Where were you delivering to?

13          A     Into Libby. There by the -- Where the  
14       overpass is now in Libby.

15          Q     Was it a Grace facility?

16          A     Oh, yeah.

17          Q     Or excuse me, a Zonolite facility?

18          A     (Deponent shakes head.)

19          Q     Was this also a Zonolite facility?

20          A     Yep.

21          Q     Did you ever have any interaction with  
22       employees from Zonolite?

23          A     With any what?

24          Q     With any employees or supervisors from  
25       Zonolite? Were there people at the place --

1 A At this (indicating)?

2 Q -- where you loaded?

3 A No.

4 Q Were there people in town that worked for  
5 Zonolite?

6 A Yes. Uh-huh. There was. The guy on the  
7 skip -- Yeah, up on the skip house there, but the  
8 one guy on the scales weighing it and -- because you  
9 weighed in and then when you unloaded you weighed  
10 out, on account of gasoline that you burned.

11 Q Were you in your truck when you unloaded?

12 A Part of the time.

13 Q When would you be out of the truck?

14 A When I would walk back there to see  
15 whether all the ore has fell out or went out or shut  
16 the tailgate before I pulled down off of there and  
17 stuff like that. Just something that you had to do  
18 when you were hauling a truck for them.

19 Q Was that a dusty job? Unloading?

20 A Yeah. Just as much dust up there as there  
21 was up on top.

22 Q Were you in an enclosed area when you were  
23 unloading?

24 A No. Just a roof over it.

25 Q Any of them? How long did it usually take

1 for you to dump the load?

2 A I don't know. Three to five minutes.

3 Q When you worked for Billy Blue and were  
4 driving that route between town and the lower ore  
5 bins, do you remember whether you kept your windows  
6 up or down?

7 A Well, in the summertime you drove with  
8 them down; in the wintertime you had them up with  
9 the heater on.

10 Q Do you remember whether dust got in your  
11 truck?

12 A Oh, lots of it.

13 Q How do you remember that?

14 A A lot of times I would have to wipe the  
15 windshield on the inside to see before I could leave  
16 up there. It would just -- Sometimes when I would  
17 go in there, I would forget to roll the window up or  
18 maybe I left a door open, and it would just fill  
19 that cab full of dust.

20 Q Did it ever cause any maintenance problems  
21 for your truck?

22 A Some.

23 Q What kinds of things do you remember?

24 A Ignition switches and light switches and  
25 starter buttons. Anything electrical that it could

1 get in, that dust would get in there and insulate it  
2 and it wouldn't work.

3 Q You mentioned that when you had a paper  
4 mask -- When you were loading the ore?

5 A Yeah.

6 Q Where did you get that?

7 A Hargraves Drug Store.

8 Q How is it that you started to wear that  
9 mask?

10 A I was trying to keep from breathing in so  
11 much dust. You would breathe that dust in and  
12 before you got loaded, why, you were spitting mud  
13 balls.

14 Q Did you know what was in the dust?

15 A No.

16 Q Did you know what you were loading?

17 A I knew what I was loading, yes, but I  
18 didn't know what it was. But you know, at that  
19 time, no, I didn't know nothing.

20 Q What did you refer to your loads as? You  
21 hauled -- Fill in the blank.

22 A Do what now?

23 Q If I were to ask you what you used to haul  
24 when you drove for Billy Blue, what would you tell  
25 people that you hauled? What did you refer to --

1 unloading the ore?

2 A No.

3 Q Did you ever use them at another time when  
4 you were driving?

5 A No.

6 Q How long would you say that -- when you  
7 were wearing the mask, that you wore it, did you  
8 wear it from the time you got out of your truck or  
9 just opened the chute or how would you describe it?

10 A Put it on just as we got ready to load.  
11 Then it would get -- You couldn't breathe, so I  
12 would take the stupid thing off to get more air, and  
13 finally I just quit wearing them.

14 Q Did you ever have any protective equipment  
15 while you were doing that job?

16 A No.

17 Q Did anyone ever tell you that you should  
18 wear the mask?

19 A No.

20 Q Do you remember how long you did that job  
21 where you hauled from Zonolite for Billy Blue?

22 A Probably two years.

23 Q Then what happened?

24 A Well, they were in the process of moving  
25 their transfer bins up the river, running across the

1 river on a belt. And the only reason I hauled any  
2 ore at all into town was to keep the popping plant  
3 going. The expanding -- They had to expand the ore  
4 and put it in baggage, you know, and put it in  
5 railroad cars and send it all over the United  
6 States.

7 Q And so what effect did that have on your  
8 job with Billy Blue?

9 A Well, it put me out of a job and they more  
10 or less just transferred me up on the hill up there.

11 Q Did you continue to work for Billy Blue?

12 A No. W.R. Grace.

13 Q Did you work for Zonolite?

14 A Yeah, Zonolite then. Vermiculite.

15 Q So you were hired by Zonolite?

16 A Yeah. Right.

17 Q How big was the gap in between the time  
18 that you work for Billy Blue and W.R. Grace?

19 A One day probably. Or maybe -- I drove  
20 days up there at the mine and I drove nights --  
21 straight nights down here for Blue.

22 Q What did you do when you started working  
23 for Zonolite directly?

24 A Drove dump truck.

25 Q Where was that?

1           A     Up in the pit.

2           Q     And what did that job entail?

3           A     It was what?

4           Q     What did you do when you drove dump truck  
5     and worked in the pit?

6           A     You backed into the shovel and they loaded  
7     you and you hauled it down. If it was ore you took  
8     it down to the mill and dumped it into the hopper  
9     there, and that would take quite some time sometimes  
10    because you would have to take a sledge hammer and  
11    break up them big chunks that wouldn't go through  
12    the grading.

13          Q     Do you remember whether it was a dusty job  
14    when you were driving?

15          A     Up in the pit it was terrible. It was  
16    terrific up there.

17          Q     Can you describe the dust that you  
18    remember?

19          A     Well, when you stick your head in the  
20    flour sack and bang both sides, let's you know how  
21    dusty it is.

22          Q     Was it when you were being loaded or when  
23    you were dumping or driving?

24          A     Backing in and driving out both. They had  
25    the exhausts on them trucks that was underneath, and



1       it was hitting the ground and that stuff was a  
2       flying out from under the trucks all the time. And  
3       you'd even have to stop -- After you got loaded and  
4       you got started out of the pit, you would have to  
5       stop sometimes because it was too dusty. The wind  
6       would blow it ahead of you and you just couldn't  
7       see.

8           Q     When you drove in the pit, did you have  
9       windows in your truck?

10          A     Yeah, but they didn't do you any good.  
11       They wouldn't let you stay in the truck.

12          Q     What do you mean?

13          A     You had to stand out in front of the truck  
14       because if something would break on the shovel or  
15       they would lose one of them big boulders and it  
16       landed in that box on that truck, it would fly up in  
17       the air and come down and would probably snap your  
18       neck.

19          Q     So did you stand in the front of the  
20       truck --

21          A     Yeah, when --

22          Q     -- when the shovel loaded you?

23          A     Yeah.

24          Q     Do you remember whether dust got in your  
25       truck?

1 A Oh, lots of it.

2 Q How do you remember that?

3 A Just dust all over the dash and the seats.

4 And no matter where you looked you seen dust.

5 Q Did that cause any maintenance problems  
6 for the truck, that you remember?

7 A Ignition problems, because daytime I  
8 didn't use lights or nothing like that up there.  
9 Just ignition switch and it would get in the  
10 distributor and foul up the points and stuff like  
11 that.

12 Q Do you remember speaking to any of the  
13 Zonolite maintenance people about your truck?

14 A Oh, yeah.

15 Q What kinds of discussions would you have?

16 A Well, John Baggs up there, I talked to him  
17 one day when we was in the -- in the lunch shack  
18 there.. If you could talk to them down there and get  
19 them to put horizontal pipes on them trucks so they  
20 wouldn't be blowing up the dust, and that was about  
21 all we ever talked about. Nothing was ever done  
22 about it.

23 Q Do you remember ever having any  
24 conversation with the maintenance people about  
25 maintenance problems with your truck?

1 A Yeah, down at the shop.

2 Q What kinds of things, do you remember?

3 A One thing he said -- He was blaming it on  
4 to me and it wasn't my fault at all.

5 Q What did he blame on you?

6 A The points in the distributor were burning  
7 up and that was their fault it was doing that.

8 Q You mentioned a lunch shack. Where did  
9 you eat lunch when you were in the pit?

10 A In the pit.

11 Q Was that -- How close was that to the rest  
12 of the area? To where the shovel and the trucks  
13 were running?

14 A Half a block.

15 Q Do you remember whether it was dusty in  
16 the lunch shack?

17 A Oh, yeah.

18 Q How long did you drive a truck in the pit?

19 A All the time I was up there. And that was  
20 probably eight, nine months, something like that.

21 Q What caused you to leave Zonolite?

22 A Got mad.

23 Q What happened?

24 A They took me off the truck and gave me a  
25 wheelbarrow and told me to shovel out under a

1 conveyor belt out there and -- where the overspill  
2 was and there was nothing but dust up under there.  
3 And I said, No, I says -- I hired out as a truck  
4 driver, not a wheelbarrow pusher, and a few other  
5 things. And he said, You're not going to do it,  
6 huh? And I said, No, I'm not.

7 Q Who was that?

8 A Kujawa.

9 Q So you quit?

10 A I quit right then. I told him, That's it.

11 Q Because you didn't want to push a  
12 wheelbarrow?

13 A No, I wasn't going to do their dusty job  
14 for them.

15 Q Okay. When you were hired at Zonolite,  
16 did the company warn you that exposure to the dust  
17 could be harmful to you?

18 A No.

19 Q When you were hired, did the company warn  
20 you that exposure to asbestos could be harmful to  
21 you?

22 A Nope.

23 Q When you were hired at Zonolite, did any  
24 of the other workers ever warn you about the dust or  
25 asbestos?

1           A    I can't remember anybody saying anything  
2    about it at all.

3           Q    Did you ever see any signs about the  
4    hazards of asbestos or dust?

5           A    Just some of that gray-looking junk that  
6    would come out between the rocks and stuff.

7           Q    How about, like, signs saying, Beware?

8           A    No.

9           Q    No signs like that?

10          A    No.

11          Q    Did your supervisors ever warn you that  
12   the dust could harm you?

13          A    No.

14          Q    Do you remember other workers talking  
15   about the dust or asbestos when you worked there?

16          A    No. About the dust. Nobody ever said  
17   anything about asbestos up there.

18          Q    Do you remember whether you or any of the  
19   other workers, to your knowledge, ever complained to  
20   the supervisors about the dust?

21          A    I did, but then it didn't do any good.

22          Q    What did you say?

23          A    I wanted them to water the road.

24          Q    And what was their response?

25          A    Well, they told us -- And I could see

1       their point, too, because when it would rain up  
2       there you couldn't get in the pit or out of it. It  
3       was so slippery it was like stepping on a bar of  
4       soap. So it was just impossible to -- and they  
5       couldn't build a road in there out of gravel or  
6       something, because they can't use that road that  
7       long.

8       Q     Do you remember any of your supervisors  
9       telling you anything about the dust?

10       A     No.

11       Q     Do you remember any of your supervisors  
12       ever telling you that the dust was not harmful to  
13       you?

14       A     Yeah.

15       Q     What do you remember?

16       A     Kujawa said it wasn't any -- the dust  
17       wasn't any worse in that mine up there or that mill  
18       than the dust coming out of a wheat field.

19       Q     Did you ever work in the mill?

20       A     No.

21       Q     Were you aware when you worked at Zonolite  
22       that other workers were becoming sick from the dust?

23       A     I knew people were getting sick, but I  
24       didn't know what was causing it.

25       Q     Do you remember hearing about -- after you

1 A Not from Carl or anybody. Nobody.

2 Q Aside from the contact that you had with  
3 people, you know, in making your fuel deliveries,  
4 after you left Zonolite working there in the '40s,  
5 did you ever have any -- did you ever receive any  
6 contact from them? Did they ever contact you again  
7 after you left?

8 A No. I was called on the phone two, three  
9 times by Johnny Baggs to get me to come back to  
10 work, but I wouldn't do it.

11 Q Why didn't you want to go back to work?

12 A Because when I quit a job, I quit.

13 Q Can you describe some of the breathing  
14 problems you've had in the last few years?

15 A Terrible. Just -- Sometimes I just don't  
16 think I'm going to make it until the next day.

17 Q What kinds of activities make you short of  
18 breath now?

19 A Pretty near anything I do.

20 Q Do you remember when you first started to  
21 notice that you were having some breathing problems?

22 A Started about eight, nine years ago, I  
23 guess, when we were out hiking or stuff like that,  
24 we'd been -- It didn't dawn on me what was going on.  
25 I didn't know what was wrong.

1 angioplasty.

2 Q Do you continue to get checkups from your  
3 doctor about your heart?

4 A Yeah.

5 Q What's your understanding of how your  
6 heart is doing?

7 A Good.

8 Q Did you eventually go see a lung  
9 specialist?

10 A I did, yeah.

11 Q Who did you go see?

12 A Whitehouse in Spokane.

13 Q Do you remember when you went to go see  
14 him?

15 A I don't know -- remember the date, no. A  
16 couple years ago.

17 Q What's your understanding about  
18 Dr. Whitehouse's specialty?

19 A First thing he asked me, he said, Did  
20 you work for Zonolite? And I said, Yeah. And he  
21 said --

22 Q Did you tell him you were from Libby?

23 A Yeah. But he said -- To start with I  
24 think he asked me if I worked around brakes, and I  
25 said, No.



1 your understanding, that some of your breathing  
2 problems are related to your heart?

3 A He said that the breathing problems was  
4 causing part of it in my heart, yeah. But whether  
5 the heart was causing the breathing, I don't think  
6 so.

7 Q Have you ever been exposed to asbestos in  
8 any other job, besides --

9 A Not that I know of, no.

10 Q Did you ever tell any of your doctors that  
11 you had been exposed to asbestos?

12 A Just Dr. Rice.

13 Q When was the last time that you went to a  
14 doctor because of your breathing problems?

15 A A week ago.

16 Q When was -- or, who was that?

17 A Dr. Rice.

18 Q Here in Libby?

19 A Yeah.

20 Q And what was happening that led you to go  
21 see him?

22 A Couldn't breathe. I was getting -- I just  
23 was so short of air all the time, I would try to  
24 breathe and I'd start coughing, coughing and  
25 coughing, and I went down there --

1 Q Did you have some more tests done with  
2 Dr. Rice?

3 A At that time I did, yeah.

4 Q What kind of tests were performed?

5 A I took that air test again, you know, how  
6 much you could take in and how much you can let out.

7 Q And what's -- Do you recall the results of  
8 those tests?

9 A Bad.

10 Q Do you have any understanding about --

11 A He just said it went from 75 down to 50.  
12 Seventy-five percent down to fifty percent. That's  
13 what I've got today is 50 percent of air capacity.

14 Q Did he give you any additional medication  
15 or prescription for your breathing problem?

16 A Just have to be on that nebulizer for  
17 twice a day probably for the rest of my life. And  
18 on that Serevent and Flovent, and I'm on both of  
19 them.

20 Q And you have been on those since  
21 Dr. Whitehouse gave them to you?

22 A The Flovent, I just went on that here.  
23 Dr. Rice told me to take the Sevevent morning and  
24 night -- two puffs in the morning, two puffs at  
25 night. Then Flovent, two puffs in the morning, two